

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **06-MSRC-04**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER

**BOBBY YOUNG, MICHAEL P. COLLINS &
JERRY D. OLIVER**

RESPONDENTS

* * * * *

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondents Bobby Young, Michael P. Collins & Jerry D. Oliver, and the members of the Commission having reviewed the Settlement Agreement filed on June 28, 2006 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

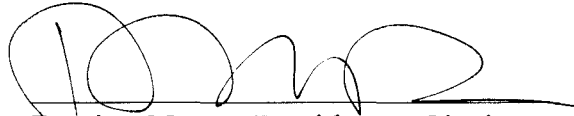
1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and pre-hearing conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**.

A copy is attached hereto;

4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
5. This Final Order shall be considered to constitute a **“first offense”** as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy

of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 13TH day of July 2006.

A handwritten signature in black ink, appearing to read 'DM Davidson', written over a horizontal line.

Denise Moore Davidson, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 17TH day of July 2006:

HON. NOELLE HOLLADAY TRUE
RAJKOVICH, WILLIAMS, KILPATRICK & TRUE PLLC
2333 ALUMNI PARK PLAZA, SUITE 310
LEXINGTON KY 40517

Counsel for Respondents

And by messenger mail to:

JENNIFER CABLE SMOCK
OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
#2 HUDSON HOLLOW
FRANKFORT KY 40601
502/ 564- 2356
FAX 502/ 564 - 9212

Attorney for OMSL

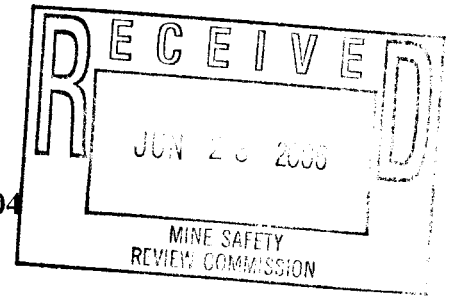
And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601



Bryan Alan Thompson
Hearing Officer & General Counsel
Mine Safety Review Commission

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 06-MSRC-004



COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

VS.

SETTLEMENT AGREEMENT

BOBBY YOUNG, MICHAEL P. COLLINS
And JERRY D. OLIVER

RESPONDENTS

* * * * *

Come the Complainant, Kentucky Office of Mine Safety and Licensing ("OMSL") and Respondents, Bobby Young, Michael P. Collins, and Jerry D. Oliver, by counsel, and hereby state that they have agreed to a settlement of the above styled disciplinary proceeding, according to the following terms:

In consideration for the final resolution of this action against them, and the cancellation of the hearing that is currently scheduled for June 8, 2006, Respondent Young admits that the committed violations of KRS 352.23(4) and KRS 352.220(1)(m), (p) and (u) as cited in Notices of Non-Compliance/Closure Order Nos. 05311-001, 05311-003 and 0531-007 to 05311-020, and as alleged by OMSL in its Complaint. Respondent Collins admits that he committed violations of KRS 352.220(1)(c) and (t) and KRS 352.230(4) as cited in Notices of Non-Compliance/Closure Order Nos. 05311-021 to 05311-031 and as alleged by OMSL in its Complaint. Respondent Oliver admits that he committed violations of KRS 352.220(1)(k), KRS 352.150 and KRS 352.230(4) as cited in Notices of Non-Compliance/Closure Order Nos. 05311-002, 05311-032 and 05311-033 and as alleged by OMSL in its Complaint. Therefore, the Respondents hereby agree to the following:

1. Respondent Young agrees to the probation of his electrical worker's certificate (#HD-262-05), his underground coal miner's certificate, his underground mine foreman's certificate (#A-205-2) and his gas detection certificate (#PE-119-93) for a period of two (2) years, effective upon the approval and entry of this Settlement Agreement by the Mine Safety Review Commission.

2. During this two-year probationary period, Young shall comply with all state and federal mine safety laws and regulations. The willful violation by Young of any of said laws or regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke his electrical worker's certificate for the remainder of the probationary period.

3. Respondent Collins agrees to the probation of his electrical worker's certificate (#HD-277-05), his underground coal miner's certificate, his underground mine foreman's certificate (#A-193-01) and his gas detection certificate (#HD-007-04) for a period of two (2) years, effective upon the approval and entry of this Settlement Agreement by the Mine Safety Review Commission.

4. During this two-year probationary period, Collins shall comply with all state and federal mine safety laws and regulations. The willful violation by Collins of any said laws or regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke his electrical worker's certificate for the remainder of the probationary period.

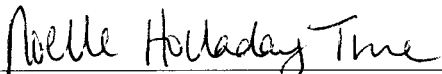
5. Respondent Oliver agrees to the probation of his underground mine foreman's certificate (#A-25-90), his underground coal miner's certificate, his shot firer – conventional certificate (#HD-26-90), his MET certificate (#HD-277-97) and his gas detection certificate (#HD-51-88) for a period of two (2) years, effective upon the approval and entry of this Settlement Agreement by the Mine Safety Review Commission.

6. During this two-year probationary period, Oliver shall comply with all state and federal mine safety laws and regulations. The willful violation by Oliver of any said laws or regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke his underground mine foreman's certificate for the remainder of the probationary period.

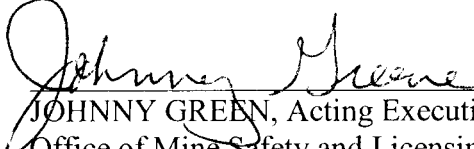
7. Within forty-five (45) days of the effective date of this Settlement Agreement, the Respondents must take eight (8) hours of special safety training from OMSL at its Hazard District Office.

8. Respondents further agree that this Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a "first offense" as that term is defined at 805 KAR 8:010, Section 1(13).

9. OMSL and Respondents acknowledge and agree that there are no further promises, inducements, representations or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.


MARCO M. RAJKOVICH, JR
NOELLE HOLLADAY TRUE
Counsel for Respondents

6/26/06
Date


JOHNNY GREEN, Acting Executive Director
Office of Mine Safety and Licensing

6-27-06
Date